

### **REMARKS**

Applicant respectfully requests reconsideration in view of the following remarks. Claims 7-11 are pending for examination, with claim 7 being the sole independent claim. No new matter has been added.

#### **Allowable Subject Matter**

Applicant acknowledges the Examiner's indication that claims 8-11 recite allowable subject matter. The allowable claims have not been rewritten in independent form at this time because they depend from claim 7 which is patentable for reasons discussed further below.

#### **Communications with SPE Zalukaeva**

Applicant acknowledges the courtesies extended by SPE Zalukaeva (the Examiner) during several communications with the undersigned. In response to the submission of a Proposed Agenda for Examiner Interview (filed September 22, 2009), SPE Zalukaeva contacted the undersigned by telephone on September 29, 2009. Following a discussion concerning the outstanding rejection to claim 7, the Examiner suggested that the undersigned send an e-mail communication identifying the claim limitations recited in claim 7 alleged to be missing from the applied references.

On September 29, 2009, the undersigned sent an e-mail to the Examiner identifying features not taught by the applied references.

On October 7, 2009, the Examiner sent the undersigned an e-mail acknowledging that the combination of applied references do not teach all of the claimed limitations. The Examiner requested that a formal response be filed to reopen prosecution.

Attached is a copy of the string of e-mail communications, from September 29, 2009 through October 7, 2009, between the undersigned and the Examiner concerning this matter.

Claim Rejections – 35 U.S.C. 103

Claim 7 stands rejected under 35 U.S.C. 103(a) as purportedly being unpatentable over Elgas (EP 1086712 A2) in view of Shettigar (US 5,055,198). Applicant respectfully traverses this rejection for at least the same reasons set forth in the Amendment filed on April 6, 2009, which is incorporated herein by reference.

Without acceding to the propriety of the purported combination, even were Elgas and Shettigar properly combinable, claim 7 nevertheless patentably distinguishes over the references which fail to teach or suggest each feature of the claimed apparatus as recited in the claim.

Claim 7 recites that the apparatus comprises a bubble sensor that is arranged at or connected to the venous line to detect bubbles in the venous blood received from the patient. The apparatus also comprises a second pump to generate a second vacuum to draw air from the air chamber of the air filter, which is connected to the venous line and arranged downstream of the bubble sensor, only when bubbles are detected in the venous blood by the bubble sensor.

As acknowledged by the Examiner, claim 7 patentably distinguishes over Elgas and Shettigar, taken either together or alone, which do not teach or suggest a system that includes a bubble sensor and a second pump for removing air bubbles from venous blood as recited in the claim. Accordingly, the rejection of claim 7 under §103 is improper and should be withdrawn.

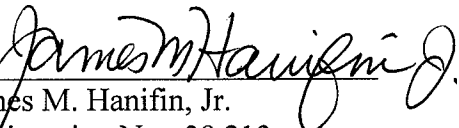
**CONCLUSION**

In view of the foregoing remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this response, that the application is not in condition for allowance, the Examiner is requested to call the undersigned at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, please charge any necessary fee to Deposit Account No. 23/2825, under Order No. H0075.70113US00 from which the undersigned is authorized to draw.

Dated: 10/9/09

Respectfully submitted,

By   
James M. Hanifin, Jr.  
Registration No.: 39,213  
WOLF, GREENFIELD & SACKS, P.C.  
Federal Reserve Plaza  
600 Atlantic Avenue  
Boston, Massachusetts 02210-2206  
617.646.8000

**Hanifin, James**

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**From:** Hanifin, James  
**Sent:** Wednesday, October 07, 2009 11:32 AM  
**To:** 'Zalukaeva, Tatyana'  
**Subject:** RE: US Application No. 10/586,060

Dear Examiner Zalukaeva,

As suggested, we will file a formal response after final requesting reconsideration on the basis that the references fail to teach all of the claim limitations. Again, we appreciate your assistance with this matter.

Best regards,

Jim Hanifin

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**From:** Zalukaeva, Tatyana [mailto:Tatyana.Zalukaeva@USPTO.GOV]  
**Sent:** Wednesday, October 07, 2009 10:59 AM  
**To:** Hanifin, James  
**Cc:** Treyger, Ilya Y.  
**Subject:** RE: US Application No. 10/586,060  
**Importance:** High

Dear Mr. Hanifin,

We did reconsider the rejection and agree with you that the combination of references does not teach all the claimed limitations. As such, we ask that you issue a formal response after final, you'd mention our communications and our agreement to reopen the prosecution. As soon as we receive it within ten days we either issue a new office action based on different reference(s) or allowance.

Thank you

**Tatyana Zalukaeva**  
**Supervisory Patent Examiner, Art Unit 3761**  
**RND 6D85**  
**Tel: (571) 272-1115**  
**FAX: (571) 273 -1115**

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**From:** James Hanifin [mailto:James.Hanifin@WolfGreenfield.com]  
**Sent:** Monday, October 05, 2009 4:17 PM  
**To:** Zalukaeva, Tatyana  
**Subject:** RE: US Application No. 10/586,060

Dear Examiner Zalukaeva,

Thank you for the update. Hope you are feeling better. Look forward to hearing from you soon. If you believe it helpful, please feel free to call me to discuss. Thanks again for your consideration.

10/7/2009

Best regards,

Jim Hanifin

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**From:** Zalukaeva, Tatyana [mailto:Tatyana.Zalukaeva@USPTO.GOV]  
**Sent:** Monday, October 05, 2009 4:12 PM  
**To:** Hanifin, James  
**Subject:** RE: US Application No. 10/586,060

Dear Mr. Hanifin,

I was on sick leave, tomorrow is my first day in office. Will take care of it tomorrow and get back to you.

Sorry for the delay.

Sincerely

Tatyana Zalukaeva  
Supervisory Patent Examiner, Art Unit 3761  
RND 6D85  
Tel: (571) 272-1115  
FAX: (571) 273 -1115

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**From:** James Hanifin [mailto:James.Hanifin@WolfGreenfield.com]  
**Sent:** Monday, October 05, 2009 1:32 PM  
**To:** Zalukaeva, Tatyana  
**Subject:** RE: US Application No. 10/586,060  
**Importance:** High

Dear Examiner Zalukaeva,

Would appreciate receiving your thoughts/comments concerning this matter. If you have any questions, please let me know.

Regards,

Jim Hanifin

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**From:** Hanifin, James  
**Sent:** Tuesday, September 29, 2009 10:46 AM  
**To:** 'tatyana.zalukaeva@uspto.gov'  
**Subject:** US Application No. 10/586,060  
**Importance:** High

Dear Examiner Zalukaeva,

Thank you for reconsidering our position concerning the outstanding rejection to the claims in this application. As mentioned during our brief discussion this morning, the applied references (Elgas and Shettigar) fail to teach or suggest at least the following feature(s) recited in claim 1.

10/7/2009

A second pump constructed and arranged to generate a second vacuum to draw air from the air chamber of an air filter, which is connected to the venous line and arranged downstream of a bubble sensor arranged at or connected to the venous line, only when bubbles are detected in the venous blood by the bubble sensor.

I look forward to your thoughts. If you have any questions or comments, please let me know.

Regards,

Jim Hanifin

**James M. Hanifin, Jr.**

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*Confidentiality Note: This e-mail message and any attachments may contain confidential or privileged information. If you are not the intended recipient, please notify me immediately by replying to this message. Please destroy all copies of this message and any attachments. Thank you.*

10/7/2009